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13 Attorneys for Defendants
KNIGHT TRANSPORTATION, INC. and
KNIGHT TRUCK AND TRAILER SALES, LLC
14

15 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
16

17 PATRICK LACROSS, ROBERT
LIRA and MATTHEW LOFTON, on
18 behalf of themselves and all other
similarly situated,

19 Plaintiffs,

20 v.

21 KNIGHT TRANSPORTATION, INC.,
22 an Arizona Corporation; KNIGHT
TRUCK and TRAILER SALES, LLC,
23 an Arizona Limited Liability Company;
and DOES 1 through 100, inclusive,

24 Defendants.
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Case No. 5:14-cv-00771-JGB-JC

**DECLARATION OF RICHARD H.
RAHM IN SUPPORT OF
KNIGHT'S OPPOSITION TO
PLAINTIFFS' MOTION TO
REMAND**

Date: July 14, 2014
Time: 9:00 a.m.
Courtroom: 1

Complaint Filed: March 3, 2014

1 I, Richard H. Rahm, do hereby declare and state as follows:

2 1. I am an attorney licensed to practice law in the State of California and
3 before this Court. I am the lead trial attorney representing Defendants Knight
4 Transportation, Inc. ("Knight Transportation") and Knight Truck and Trailer Sales,
5 LLC ("Knight Sales") (collectively, "Knight") in this case and make this declaration
6 in support of Knight's Opposition To Plaintiffs' Motion To Remand To State Court.
7 All of the information set forth herein is based on my personal knowledge and, if
8 called and sworn as a witness, I could and would competently testify thereto.

9 2. On March 3, 2014, two of the named Plaintiffs in the instant case,
10 Plaintiffs LaCross and Lira, filed a second lawsuit, *Patrick LaCross and Robert Lira*
11 *v. Knight Transportation, Inc.*, C.D. Cal. Case No. 5:14-cv-0074-JGB-JC ("Employee
12 Action"), which is also pending before this Court. A true and correct copy of the
13 Employee Action is attached for the Court's convenience as Exhibit A. In the
14 Employee Action, Plaintiffs alleged the same wage-and-hour claims for the period
15 they worked as employee-drivers, before becoming independent contractors, at Knight
16 Transportation. I am the lead trial attorney representing Knight Transportation in the
17 Employee Action.

18 3. In the Employee Action, the same causes of action are alleged as in the
19 present independent contractor action except that in the present action there are also
20 claims for wage-statement violations and PAGA penalties. Although the causes of
21 action are similar, because the class members in the Employee Action cannot claim
22 reimbursement for any lease-related or fuel payments, since they are driving tractors
23 owned by Knight, which also pays their fuel costs, the primary focus of the Employee
24 Action is the wage-and-hour claims. In the Employee Action, Plaintiffs LaCross and
25 Lira also allege they worked a total of 16 months as employee drivers.

26 4. On May 15, 2014, shortly after Knight removed the present action, but
27 before Plaintiffs filed their Motion to Remand, Plaintiffs LaCross and Lira offered to
28 settle their own wage-and-hour claims in the Employee Action for \$40,000. In that

1 offer, Plaintiffs LaCross and Lira demanded \$40,000 to settle their wage-and-hour
2 claims. Yet, the wage-and-hour claims in the Employee Complaint are the same as
3 those in the present independent contractor action insofar as Plaintiffs contend that
4 they were actually employees misclassified as independent contractors. Insofar as
5 \$40,000 for 64 weeks of work is a compromise of Plaintiffs' wage-and-hour claims,
6 Plaintiffs have valued those claims at \$625 per week of work (\$40,000 divided by 64
7 weeks of work as employee drivers). In the present independent contractor action,
8 there are approximately 28,850 worked weeks (577 drivers x 50 weeks). At \$625 per
9 work week, the value of Plaintiffs wage-and-hour claims in the present action would
10 be approximately \$18 million (28,850 work weeks x \$625 = \$18,031,250). Attached
11 hereto as Exhibit B is a true and correct copy of the e-mail I received from Plaintiffs'
12 counsel on May 15, 2014.

13 5. On May 19, 2014, Plaintiffs filed the instant Motion to Remand. Prior to
14 filing, Plaintiffs' counsel failed to meet and confer with me or any of the other
15 attorneys of record for Defendants regarding the substance of Plaintiff's Motion to
16 Remand. Likewise, Plaintiffs' counsel failed to include a statement in the notice of
17 motion that they met and conferred as required by Local Rule 7-3.

18 6. On May 20, 2014, Plaintiffs' counsel reiterated his settlement offer of
19 May 15, 2014. Attached hereto as Exhibit C is a true and correct copy of the email I
20 received from Plaintiffs' counsel on May 20, 2014.

21 7. In the Motion to Remand, Plaintiffs argue that Knight "failed to provide
22 any explanation or calculation of the percentage of mileage driving within California
23 and outside California for the three named Plaintiffs and the purported 557 class
24 members." Mtn. Remand 11:2-5. Plaintiffs bases this argument on a motion for
25 preliminary approval of a class action settlement in *Steve Carson, et al. v. Knight*
26 *Transportation, Inc.*, Tulare County Superior Court Case No. 09234186, of which I
27 am lead trial counsel for Knight. The *Carson* action concerns a number of wage-and-
28 hour claims by a class of present and former Knight employee-drivers, not

1 independent contractors. In plaintiffs' motion for preliminary approval in the *Carson*
2 action, class counsel argued that one of the several reasons the class settlement is fair
3 is that, had the case been tried, Knight could have argued that, even if it had liability
4 for the alleged wage-and-hour claims, such liability should be reduced by the amount
5 of time the drivers were outside the State of California. However, the *Carson* court
6 never ruled on this argument because the argument was never before the court.

7 8. The *Carson* class concerns a class of employee-drivers, and not
8 independent contractors, as is recounted in the class definition in Paragraph 3 of the
9 *Carson* Settlement Agreement, which is attached as Exhibit B to the Declaration of
10 James M. Trush, filed in support of Plaintiffs' Motion to Remand. Indeed, the *Carson*
11 action has no claims for reimbursement. In any event, with the exception of the
12 named plaintiffs in the *Carson* action, no claims have been released.

13 Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury,
14 under the laws of the United States, that the foregoing is true and correct, and that this
15 declaration was executed on June 2, 2014, at San Francisco, California.

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18 /s Richard Rahm
RICHARD RAHM

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